

SENATE MOTION

MADAM PRESIDENT:

I move that House Bill 1135 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
2 paragraph and insert:
3 "SECTION 1. IC 4-22-2-19 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 19. (a) Except as
5 provided in section 23.1 of this chapter, this section does not apply to
6 the adoption of rules:
7 (1) ~~required by statute if initiation of the rules is contingent upon~~
8 ~~the receipt of a waiver under federal law; to receive or maintain:~~
9 **(A) delegation;**
10 **(B) primacy; or**
11 **(C) approval;**
12 **for state implementation or operation of a program**
13 **established under federal law;**
14 (2) that amend an existing rule;
15 (3) required **or authorized** by statutes enacted before June 30,
16 1995; or
17 (4) required **or authorized** by statutes enacted before June 30,
18 1995, and recodified in the same or similar form after June 29,
19 1995, in response to a program of statutory recodification
20 conducted by the code revision commission.
21 (b) If an agency will have statutory authority to adopt a rule at the
22 time that the rule becomes effective, the agency may conduct any part
23 of its rulemaking action before the statute authorizing the rule becomes
24 effective.
25 (c) However, an agency shall:
26 (1) begin the rulemaking process not later than sixty (60) days
27 after the effective date of the statute that authorizes the rule; or
28 (2) if an agency cannot comply with subdivision (1), ~~immediately~~
29 provide written notification to the administrative rules oversight
30 committee stating the reasons for the agency's noncompliance.
31 If an agency notifies the administrative rules oversight committee

concerning a rule in compliance with subdivision (2), failure to adopt the rule within the time specified in subdivision (1) does not invalidate the rule."

Page 1, between lines 11 and 12, begin a new paragraph and insert:
 "SECTION 3. IC 4-22-2-23 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 23. (a) This section
 does not apply to rules adopted under IC 4-22-2-37.1.

(b) **At least twenty-eight (28) days** before ~~or after~~ an agency notifies the public of ~~its~~ **the agency's** intention to adopt a rule under section 24 of this chapter, the agency shall notify the public of its intention to adopt a rule by publishing a notice of intent to adopt a rule in the Indiana Register. ~~at least thirty (30) days before the preliminary adoption of the rule.~~ The publication notice must include an overview of the intent and scope of the proposed rule and the statutory authority for the rule.

(c) The requirement to publish a notice of intent to adopt a rule **under subsection (b)** does not apply to rulemaking under IC 13-14-9.
~~The~~

(d) **In addition to the procedures required by this article, an** agency ~~shall~~ **may** solicit comments from the public on the need for a rule, the drafting of a rule, or any other subject related to a rulemaking action. The procedures that the agency may use include the holding of conferences and the inviting of written suggestions, facts, arguments, or views.

(e) The agency shall prepare a written response that contains a summary of the comments received during any part of the rulemaking process. The written response is a public document. The agency shall make the written response available to interested parties upon request."

Page 3, between lines 10 and 11, begin a new line and insert:
"The attorney general may require the agency to submit any supporting documentation that the attorney general considers necessary for the attorney general's review under section 32 of this chapter. The agency may submit any additional supporting documentation the agency considers necessary."

Page 3, line 11, strike "attorney general shall determine the number of copies of the".

Page 3, line 12, strike "rule".

Page 3, line 12, after "section." insert **"agency shall submit the following documents to the attorney general:"**.

"(1) One (1) original copy of the rule.

(2) Two (2) copies of the rule.

(3) One (1) copy of any matters incorporated by reference under section 21 of this chapter.

(4) Two (2) copies of any supporting documentation submitted under subsection (a).

SECTION 6. IC 4-22-2-33 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 33. (a) After a rule has been approved or deemed approved under section 32 of this chapter, the

1 agency shall submit the rule to the governor for approval. The agency
 2 shall submit the rule in the form required by section 20 of this chapter
 3 and with the documents required by section 21 of this chapter.

4 (b) The **agency shall submit to the** governor ~~shall determine the~~
 5 ~~number of the~~ copies of the rule and other documents ~~to be submitted~~
 6 ~~under this section: specified in section 31 of this chapter.~~

7 SECTION 7. IC 4-22-2-35 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 35. (a) When a rule has
 9 been approved or deemed approved by the governor within the period
 10 allowed by section 25 of this chapter, the agency shall immediately
 11 submit the rule to the secretary of state for filing. The agency shall
 12 submit the rule in the form required by section 20 of this chapter and
 13 with the documents required by section 21 of this chapter.

14 (b) The **agency shall submit to the** secretary of state ~~shall~~
 15 ~~determine the number of the~~ copies of the rule and other documents ~~to~~
 16 ~~be submitted under this section: specified in section 31 of this chapter.~~

17 (c) Subject to section 39 of this chapter, the secretary of state shall:

- 18 (1) accept the rule for filing; and
- 19 (2) file stamp and indicate the date and time the rule is accepted
 20 on every duplicate original copy submitted.

21 SECTION 8. IC 4-22-2-39 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 39. (a) When an
 23 agency submits a rule for filing under section 35, 37.1, or 38 of this
 24 chapter, the secretary of state may accept the rule for filing only if the
 25 following conditions are met:

- 26 (1) ~~A sufficient number of duplicate original copies of the rule are~~
 27 **The following documents are** submitted to allow the secretary of
 28 state to comply with IC 4-22-7-5:

29 (A) **One (1) original copy of the rule.**

30 (B) **Two (2) copies of the rule.**

31 (C) **One (1) copy of any matters incorporated by reference**
 32 **under section 21 of this chapter.**

33 (D) **Two (2) copies of any supporting documentation**
 34 **submitted under section 31(a) of this chapter.**

- 35 (2) Each submitted copy includes a reference to the document
 36 control number assigned to the rule by the publisher.

- 37 (3) Each submitted copy indicates that the agency has conducted
 38 its rulemaking action in conformity with all procedures required
 39 by law. However, if section 31 of this chapter applies to the rule,
 40 the secretary of state shall rely on the approval of the attorney
 41 general as the basis for determining that the agency has complied
 42 with all procedures required before the date of the approval.

43 (b) If a rule includes a statement that the rule is not effective until:

- 44 (1) an agency has complied with requirements established by the
 45 federal or state government;
- 46 (2) a specific period of time has elapsed; or
- 47 (3) a date has occurred;

48 the agency has complied with subsection (a)(3) even if the described

event or time has not occurred before the secretary of state reviews the rule under this section.

(c) The secretary of state shall take no more than three (3) business days to complete the review of a rule under this section.

SECTION 9. IC 4-22-2.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Except as provided in subsection (b) or section 1.1 of this chapter, an administrative rule adopted under IC 4-22-2 expires January 1 of the seventh year after the year in which the rule takes effect, unless the rule contains an earlier expiration date. The expiration date of a rule under this section is extended each time that a rule amending an unexpired rule takes effect. The rule, as amended, expires on January 1 of the seventh year after the year in which the amendment takes effect.

(b) An administrative rule that:

(1) was adopted under IC 4-22-2;

(2) is in force on December 31, 1995; and

(3) is not amended by a rule that takes effect after December 31, 1995, and before January 1, 2002;

expires not later than January 1, 2002.

(c) The determination of whether an administrative rule expires under this chapter shall be applied at the level of an Indiana Administrative Code section.

SECTION 10. IC 4-22-2.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) Except as provided in subsection (b), an agency may readopt all rules subject to expiration under this chapter under one (1) rule that lists all rules that are readopted by their titles and subtitles only. A rule that has expired but is readopted under this subsection may not be removed from the Indiana Administrative Code.

(b) If, not later than thirty (30) days after an agency's publication of notice of its intention to adopt a rule under ~~IC 4-22-2-24~~ **IC 4-22-2-23** using the listing allowed under subsection (a), a person submits to the agency a written request and the person's basis for the request that a particular rule be readopted separately from the readoption rule described in subsection (a), the agency must:

(1) readopt that rule separately from the readoption rule described in subsection (a); and

(2) follow the procedure for adoption of administrative rules under IC 4-22-2 with respect to the rule.

(c) If the agency does not receive a written request under subsection (b) regarding a rule within thirty (30) days after the agency's publication of notice, the agency may:

(1) submit the rule for filing with the secretary of state under IC 4-22-2-35 and publish notice in the Indiana Register that the agency has readopted the rule; or

(2) elect the procedure for readoption under IC 4-22-2.

SECTION 11. IC 4-22-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. An agency shall

maintain a ~~duplicate original~~ copy of each rule that has been filed with the secretary of state (including documents filed with the secretary of state under IC 4-22-2-21) under a retention schedule established by the commission on public records."

Page 3, line 14, strike "Except as provided in".

Page 3, line 15, strike "subsection (f),".

Page 3, line 15, delete "the" and insert "**The**".

Page 3, line 15, strike "a duplicate".

Page 3, line 15, after "duplicate" insert "**the**".

Page 3, line 18, delete "." and insert "**and one (1) copy of any supporting documentation submitted under section 31 of this chapter.**".

Page 3, line 21, strike "two".

Page 3, line 22, strike "(2) duplicate copies" and insert "**one (1) copy**".

Page 3, line 23, after "publisher." insert "**The secretary of state shall also return to the agency one (1) copy of the rule and one (1) copy of any supporting documentation submitted under section 31 of this chapter.**".

Page 3, strike lines 29 through 42.

Page 4, strike lines 1 through 7.

Page 6, after line 38, begin a new paragraph and insert:

"SECTION 18. IC 13-14-9.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Except as provided in subsection (b) or section 1.1 of this chapter, an administrative rule adopted under IC 13-14-9 expires January 1 of the seventh year after the year in which the rule takes effect, unless the rule contains an earlier expiration date. The expiration date of a rule under this section is extended each time that a rule amending an unexpired rule takes effect. The rule, as amended, expires on January 1 of the seventh year after the year in which the amendment takes effect.

(b) An administrative rule that:

(1) was adopted under a provision of IC 13 that has been repealed by a recodification of IC 13;

(2) is in force on December 31, 1995; and

(3) is not amended by a rule that takes effect after December 31, 1995, and before January 1, 2002;

expires not later than January 1, 2002.

(c) The determination of whether an administrative rule expires under this chapter shall be applied at the level of an Indiana Administrative Code section."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1135 as printed March 22, 2005.)

